

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

)
Amendment of Part 95 of the)
Commission's Rules to allow)
Interactive Video and Data)
Service licensees to provide)
mobile service to subscribers)

WT Docket No. 95-47
RM-8476

To: The Commission

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

REPLY COMMENTS OF SEA INC.

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SUMMARY

SEA is impressed by the widespread response from the industry community with regard to this proceeding, in which the Commission is considering modifications to the Interactive Video and Data Service (IVDS) rules, including allowing ancillary mobile operations with a 100 mW ERP power limit. SEA continues to support this concept in general and herein discusses its position in light of the filed comments.

SEA continues its support for a 100 mW ERP power limit proposed for mobile response transmitter units (RTUs). We do not, however, support a regulation which applies the same power limit to fixed RTUs, as well.

SEA notes that other commenters are concerned with the prospect of overly restrictive technical and applications rules in the IVDS. SEA reiterates its position that rules must be as permissive as possible to permit this service to flourish.

SEA notes the general support among the commenters for relaxation of the "five second rule" for RTUs. SEA believes no duty cycle limit is necessary for 100 mW RTUs. SEA advocates the elimination of the five second rule for non-channel 13 markets in the U.S. and Puerto Rico.

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REPLY COMMENTS OF SEA INC.

SEA, Inc. ("SEA") by its undersigned counsel, hereby replies to the initial comments on the FCC's Notice of Proposed Rule Making ("Notice") in the above captioned proceeding.^{1/}

DISCUSSION

Mobile Operation and Applications Restrictions

SEA notes the broad support of the commenters for the basic proposal to permit ancillary operation of itinerant, low power mobiles in the IVDS band.^{2/}

We again urge the Commission to adopt rules permitting low power itinerant mobile operation without adding unnecessary application restrictions to the service. The Commission in this proceeding is making a correct move toward broadening the appeal and

^{1/} Notice of Proposed Rule Making, WT Docket No. 95-47, May 5, 1995.

^{2/} See, for instance, Comments of Tel/Logic at 1, Comments of Richard L. Vega Group at 1, Comments of Interactive Management Services, LLC at 1, Comments of Grand Broadcasting Corporation at 3, Comments of Joint Filing Licensees at 1, and Comments of EON at 2.

marketability of this new service. The progress made, however, could easily be lost by deciding that only a narrow set of applications will be permitted in the band. SEA continues to believe that the way to make this new service (and the enterprises developed by the new licensees) succeed is to adopt rules which permit flexibility in the band's use, in both mobile and fixed applications. This belief is shared by several commenters.^{3/} For example, Tel/Logic believes "...the initial IVDS business proposition may be flawed..."^{4/}, and states that "... IVDS licensees must not be artificially restricted by operating rules designed to constrain business opportunities to earlier visions of interactive television".^{5/}

Many commenters in this proceeding have encouraged the Commission to create a regulatory atmosphere in which technical and operational flexibility is allowed. SEA agrees with this sentiment. The National Action Group for IVDS, in pointing out the shortcomings of the original perception of IVDS and the lack of equipment options, concludes that its members "... (do) not expect viable interactive video applications to be devised quickly enough to allow the successful operations of systems

^{3/} See, for instance, Comments of Richard L. Vega Group at 2, Comments of ITV and IVDS Affiliates LLC at 2, and Comments of the Committee for Effective IVDS Regulation at 7.

^{4/} See Comments of Tel/Logic at 2.

^{5/} Id.

offering only interactive programming at any time during the next 3-5 years."^{6/} Indeed, a recent analysis of the current state of wireless IVDS published in the Washington Post noted that "... (IVDS) license holders are learning what huge cable television and phone companies already know: There is no evidence that people want to interact with their television sets."^{7/} Clearly, if IVDS licensees are forced to rigidly follow the applications formula for "true IVDS", many, if not most, will fail in their business enterprises.

It is for the above-expressed reasons that SEA believes it is incumbent upon the Commission to allow mobile operation and permit the greatest flexibility possible in the technical service rules and application restrictions for this service.

100 mW ERP power limit for itinerant mobiles

SEA continues to support the 100 mW ERP maximum limit for itinerant mobiles.

^{6/} See comments of National Action Group for IVDS at 5.

^{7/} "Interactive TV: The Leap Looks a Long Way Off", The Washington Post, July 2, 1995 page H-1. The article also observed that "(e)ven if the public does begin to clamor for interactivity, broadcasters, cable operators and phone companies are only a few years away from providing the same service, and more."

SEA also continues to strongly support retention of the 20W maximum for fixed RTUs.^{8/} SEA notes strong support of retaining the 20W maximum for fixed RTUs. As discussed in SEA's comments^{9/} a general reduction of the maximum RTU ERP to 100 mW would require all systems operating in the IVDS to be of the same cellular architecture as that promoted by EON and described in its petition. This prospect is a serious concern to many licensees. As indicated in the comments filed jointly by many licensees^{10/} ("joint-filing licensees"), such a restriction would "...increase the cost of constructing IVDS systems exponentially because so many additional cells would have to be constructed...".^{11/} SEA believes that at this early stage of development for this service, such a sudden impact on the build-out cost scenario would undoubtedly hinder licensees' ability to

8/ See Comments of Tel/Logic at 4, Comments of Concept to Operations, Inc. at 5, Comments of RTT at 7, Comments of Commercial Realty St. Pete, Inc. at 4, Comments of Triad TV Data at 5, Comments of Two Way TV at 2, Comments of Dispatch Interactive Television at 5, Comments of Erwin Aguayo, Jr. at 2, and Comments of Henry Mayfield at 2.

9/ See Comments of SEA at 5.

10/ See combined Comments of KMC Interactive TV Inc., Whitehall Wireless Corp., Loli Inc., Vision TV Inc., Transpacific Interactive Inc., new Wave Communications Inc., IVDS On-Line Partnership, MAR Partnership, Dunbar Television Corp., Community Teleplay Inc., TV-Active L.L.C., America 52 East Inc., America 52 West Inc., American Interactive East Inc., American Interactive West Inc., On-Screen USA Interactive Inc., Premier Interactive Inc., and Remove Vision Interactive Inc. These licensees are the holders of sixty-two (62) MSA licenses awarded through auctions.

11/ Id. at 5.

attract capital investment and could essentially stop the service in its tracks.

It bears repeating that applicants who previously were granted licenses through either the lottery or auction process entered the IVDS enterprise with the understanding that this would be a 20 W ERP maximum service. Reducing the maximum power in this proceeding would be unfair to these new licensees because they would be forced into a much more expensive build-out than could have been imagined when they entered their bids. Furthermore, retaining the 20W ERP maximum for fixed RTUs will not worsen the interference scenario beyond that originally adopted by the Commission and endorsed by MSTV.

Five second rule

SEA urges the Commission to relax the five second rule^{12/} in Channel 13 markets and to eliminate it in non-Channel 13 markets. Many commenters expressed similar viewpoints.^{13/} Tel/Logic believes the duty cycle restriction should not apply to mobile RTUs and should be eliminated for fixed RTUs.^{14/} The Joint Filing Commenters note that the interference protection

^{12/} 47 CFR ¶ 95.863

^{13/} See, for instance, Comments of Interactive Management Services, LLC at 2, Comments of Triad TV Data at 4, Comments of the Committee for Effective IVDS Regulation at 4, and Comments of Mr. Henry Mayfield at 2.

^{14/} See Comments of Tel/Logic at 5.

provided through ¶95.855 and ¶95.859 of the Commission's rules should provide sufficient protection to Channel 13 broadcasting, making the five-second rule unnecessary.^{15/} SEA's views on the five second rule are as follows:

1. No duty cycle restriction is necessary for 100 mW operation in any market. SEA believes there is no compelling reason to restrict the transmission time of 100 mW RTUs, fixed or mobile. Indeed, the original petitioner for this rulemaking, EON, believes that a duty cycle is "...no longer warranted for systems in which RTUs are operating at power levels of 100 mW or less."^{16/} The Joint-Filing Licensees note that no duty cycle limit is being imposed on transmitters in the proposed 216-217 MHz Low Power Radio Service band.^{17/}

2. No duty cycle restriction is necessary for any RTU outside of Channel 13 markets. As noted in SEA's Comments^{18/}, a five second rule is not necessary in non-Channel 13 markets. The National Action Group for IVDS agrees, noting "...application of rules designed to safeguard TV Channel 13 makes little sense in

^{15/} See Comments of Joint-Filing Commenters at 6.

^{16/} See Comments of EON, footnote 10 at 5. EON states its belief but does not request that the Commission eliminate the restriction at this time.

^{17/} See Comments of Joint-Filing Licenses at 8.

^{18/} See Comments of SEA at 7.

areas where no TV Channel 13 service is provided".^{19/} Furthermore, the relative absence of Channel 13 service areas makes the general application of this duty cycle requirement onerous. Specifically, SEA recommends that the five second rule be eliminated for RTUs which operate outside TV Channel 13 Grade B plus five mile service areas.

Because the original intent of the duty cycle limit for RTU transmitters was to minimize interference to television sets tuned to Channel 13, it should be obvious that such a limit has no purpose outside of Channel 13 markets and is of negligible import when applied to low power mobiles. Of secondary but critical concern to the reconsideration of this rule is the burden it imposes on IVDS system and market development. A five second per hour limit practically restricts the range of potential applications to those that can be supported by one-way (CTS-to-RTU) communications. There is little likelihood that the IVDS business will become viable if this limitation is left intact.

CONCLUSION

The Commission has the opportunity to improve the service rules for the Interactive Video and Data Services, and in so doing demonstrate that the use of auctions can, indeed, hasten the development of new communication services for public benefit.

^{19/} See Comments of The National Action Group at 8.

At the same time it is crucial to recognize that excessive, if not unnecessary, regulation would be enough to cripple this young industry and keep it from becoming successful.

For the foregoing reasons, SEA urges the Commission to adopt the aforementioned rule changes for the Interactive Video and Data Services, which will best serve the public interest as well as the interests of licensees. The proposals and comments contained herein reflect SEA's views on what constitutes a flexible approach to IVDS while minimizing risks to licensees. When coupled with the technical parameters SEA has proposed, the Commission's proposed rule changes will achieve greater flexibility and will enhance the impetus for growth in the Interactive Video and Data Services.

Respectfully submitted,

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Dated: July 11, 1995

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 11th day of July, 1995, caused copies of the foregoing "Reply Comments" to be served by first class mail, postage prepaid to the following:

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